

General Information Letter: W-2 retention requirements.

December 8, 1999

Dear:

This is in response to your letter dated November 18, 1999 in which you request a Private Letter Ruling. Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department. For your general information we have enclosed a copy of 2 Ill. Adm. Code Part 1200 regarding rulings and other information issued by the Department.

Although you have not specifically requested either type of ruling, the nature of your question and the information provided require that we respond only with a GIL.

In your letter you stated:

I produce software for filing forms W-2 and 1099 in magnetic format with SSA and IRS. I also act as Service Bureau and file employer information with SSA and 1099 information returns with IRS.

I have a new customer with employees in your state. I will need to comply with your filing requirements for income tax withholding, information reporting, and unemployment payments.

I need to know if your state accepts the SSA magnetic media format to meet your annual filing requirements. If so, please send information on how/where to submit and any transmittal or other forms you require with this type filing.

If you do not accept SSA's format, please send me the forms and/or format and instructions which will allow us to comply with your annual filing requirements for income tax, information reporting, and unemployment insurance for tax year 1999.

DISCUSSION

Pursuant to section 704(f) of the Illinois Income Tax Act ("IITA") W-2 returns are required by magnetic media if; a) the Internal Revenue Service requires it, and b) the Department of Revenue requires it. However, section 100.7300(b)(1) of 86 Illinois Administrative Code (copy enclosed) only requires an employer to maintain W-2 records for a period of three years. Section 100.7300(b)(3)(A) of 86 Illinois Administrative Code (copy enclosed) states that each year the Department of Revenue will contact a sample of employers and require those

IT 99-0098-GIL
December 8, 1999
Page 2

employers to submit such information. Of the sample group, the Department requires employers with more than 250 employees to file by magnetic media and allows filing by magnetic media for employers with less than 250 employees.

I hope that this has been helpful to you. If you have additional questions please feel free to contact me at the above address.

Very Truly Yours,

Charles Matoesian
Associate Counsel
Income Tax